

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Utility Application of:
Reinhard Keller

Application No.: 10/575,544

Confirmation No.: 5662

Filed: May 18, 2006

Art Unit: 2122

For: CONTROL FOR A MACHINE FOR THE
MANUFACTURE OF PAPER PADDING

Examiner: T. Gami

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Introduction

This is the reply brief of the Applicant for the above-identified appeal. No attempt is made here to reiterate the arguments already presented in Applicant's original appeal brief. Indeed, as discussed below, most of the Examiner's arguments have already been addressed.

Argument

Both Applicant and the Examiner agree that the button 18 in FIG. 1 of the instant application forms the "input means" as disclosed and claimed in the instant application. However, a simple push button is not the only type of input means that could be used to practice Applicant's invention. By way of example only, a lever could form the input means or even a light-activated switch which is activated by the placement of the operator's hands in a particular location relative to that light-activated switch.

Since other types of input means can be used to practice Applicant's invention, the claims in the instant application do not claim "holding" the button (as noted by the Patent Examiner) since "holding" simply would not accurately describe other types of input means. That is why the claims in the instant application recite "activating" the input means.

Claims 1 and 14, i.e. the two independent claims in the instant application, both recite the following limitation:

the time period of the activation of the input means corresponds to the length of padding produced.

This limitation is simply not met by the Harding reference.

Rather, in the Harding reference, a momentary closure or "activation" of the "12 inch" button on the Harding machine will produce 12 inches of padding even though it may take several minutes in order to produce that padding by the machine. Consequently, the length of time of activation of the input means of Harding has absolutely no impact on the length of padding produced by the Harding machine; see, for example, paragraph [0046] of Harding.

Applicant's machine is able to produce padding of any desired length by merely varying the time of activation of the input means. Contrary to that asserted by the Patent Examiner, the Harding machine is simply not able to do this.

In order to support this argument, the Patent Examiner references paragraph [0046] in the Harding reference. The Patent Examiner, however, has read more into the Harding reference than exists. Rather, paragraph [0046] of the Harding reference merely states that different buttons can be programmed with different padding lengths. However, if a padding length different from that preprogrammed into the Harding buttons is desired, the Harding machine simply cannot produce it. Applicant's machine can.

Lastly, the Patent Examiner (correctly) states that “activation is NOT a synonym for depression.” Applicant fully agrees. However, as previously discussed, since different types of input means may be used to practice Applicant’s invention, different actions may be required to activate the input means. That is why the claims use the word “activation” rather than “depression”.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180, under Order No. MFA-20202/04.

Dated: July 22, 2011

Respectfully submitted,

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